



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

March 2, 2004

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

8ENF-L

David L. Berry
Horse Creek Cattle Company Limited Partnership
P.O. Box 100
Horse Creek, WY 82061

Re: In the Matter of: David L. Berry and Horse
Creek Cattle Company Limited Partnership,
Docket No. CWA-08-2004-00 ;
Transmittal of Signed Administrative
Compliance Order on Consent

Dear Mr. Berry:

Enclosed please find the signed Administrative Compliance Order on Consent ("Consent Order" or "Order") in this matter. The Consent Order is now final and you must begin to undertake the steps set forth in the Order according to the time-frames set forth therein.

As previously advised, your agreement to enter into this Consent Order and its issuance does not preclude the initiation of any action authorized under law for failure to comply with the Order, including the assessment of an administrative penalty and the filing of a civil action in the U.S. District Court for civil penalties and/or injunctive relief. Failure to comply with the requirements of the Consent Order is a violation of the Order. Also as previously advised, your agreement to enter into this Consent Order and its issuance does not preclude the initiation of administrative penalty proceedings or the commencement of civil or criminal actions in the U.S. District Court for the violations cited in the Order or for any other violations that you and Horse Creek Cattle Company Limited Partnership may have committed prior to or may commit after the issuance of the enclosed Consent Order.

We appreciate your efforts in working cooperatively with EPA to resolve this matter in a timely fashion and look forward to a continued positive working relationship between you and EPA.



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If you have any technical questions regarding the matters addressed in the Consent Order or on related issues, the most knowledgeable person on my staff is Kenneth Champagne, Section 404 Enforcement Officer, who can be reached at 303-312-6608. Any legal questions, including those pertaining to the terms of the Consent Order, should be directed to Sheldon Muller, Enforcement Attorney, at 303-312-6916.

Sincerely,

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure:

Administrative Compliance Order
On Consent

cc (w/ encl.): Matthew Bilodeau, U.S. Army Corps of Engineers
Thomas Johnson, U.S. Army Corps of Engineers
David LaGrone, U.S. Army Corps of Engineers
Mary Jennings, U.S. Fish & Wildlife Service

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

IN THE MATTER OF:)	ADMINISTRATIVE COMPLIANCE
)	ORDER ON CONSENT
David L. Berry and)	
Horse Creek Cattle Company)	
Limited Partnership)	
P.O. Box 100)	Docket No. CWA-08-2004-0032
Horse Creek, WY 82061)	
)	
)	
Respondents.)	
_____)	

I. INTRODUCTION

1. This Administrative Compliance Order on Consent (“Consent Order” or “Order”) is entered into between the United States Environmental Protection Agency (“EPA”) and the Respondents, Horse Creek Cattle Company Limited Partnership (“Horse Creek Cattle Company”) and David L. Berry. The Consent Order concerns the completion of compliance actions required to address the environmental damages caused by alleged illegal discharges of dredged or fill material at the Horse Creek Cattle Company property in Laramie County, Wyoming.

II. STATUTORY AUTHORITY

2. This Consent Order is issued pursuant to the authority vested in the Administrator of the EPA by section 309 of the Clean Water Act (“CWA”), 33 U.S.C. § 1319. This authority has been properly delegated to the Assistant Regional Administrator of the Office of

Enforcement, Compliance and Environmental Justice, EPA Region 8. The Consent Order is based on the findings of violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a), which, among other things, prohibits the discharge of pollutants into waters of the United States except as in compliance with section 404 of the CWA, 33 U.S.C. § 1344.

III. PARTIES BOUND

3. This Consent Order shall apply to and be binding upon EPA and shall be binding upon the Respondents, their agents, heirs, successors, and assigns. The signatories to this Consent Order certify that they are authorized to execute and legally bind the parties they represent to this Order. No change in the ownership or legal status of the Horse Creek Cattle Company or ownership of the property that is the subject of this Consent Order shall alter Respondents' responsibilities under this Order.

IV. STATEMENT OF PARTIES

4. Except as otherwise provided in Paragraph 5 of Section IV of this Consent Order, the FINDINGS OF FACT AND OF VIOLATION set forth in Section V of this Order are made solely by EPA. Except as otherwise provided in Paragraph 5 of Section IV of this Order, in signing this Consent Order, the Respondents neither admit nor deny the FINDINGS OF FACT AND OF VIOLATION. In order to provide for the complete resolution of the alleged violations of the CWA and without acknowledging any further liability, the Respondents consent to the issuance of this Consent Order and agree to abide by all of the terms and conditions herein and agree not to challenge the jurisdiction of EPA or the FINDINGS OF FACT AND OF VIOLATION set forth in Section V of this Order in any proceeding to enforce this Order.

5. Respondents specifically admit those FINDINGS OF FACT AND OF VIOLATION set forth in Paragraphs 6, 7 and 9 of Section V of this Consent Order.

V. FINDINGS OF FACT AND OF VIOLATION

6. Horse Creek Cattle Company is a Wyoming limited partnership whose address is 2880 Horse Creek Road, Cheyenne, WY 82009. It is currently in good standing with the Wyoming Secretary of State's office and its registered agent and managing partner is David L. Berry, P.O. Box 100, Horse Creek, WY 82061.

7. At all relevant times, the Horse Creek Cattle Company and/or David L. Berry owned, controlled and/or operated the property containing North Fork Horse Creek, Horse Creek, and their adjacent wetlands located in Sections 9, 10, 14, 15, 23, 24, 25, and 26, Township 17 North, Range 70 West, Laramie County, Wyoming (the "Horse Creek Ranch Property").

8. North Fork Horse Creek is tributary to Horse Creek, which is tributary to the North Platte River, which is tributary to the Missouri River. The Missouri River is and was at all relevant times a navigable, interstate water.

9. Respondents purchased Horse Creek Ranch, which includes all of the Horse Creek Ranch Property, in 1995.

10. On or about March 1, 1999, Respondents entered into an agreement with Colby Lebsack of the Meadowlark Angling Club to develop the Horse Creek Ranch property for the purpose of enhancing fish habitat in North Fork Horse Creek. In 1999, beginning in approximately March and with Respondents' knowledge and approval, Colby Lebsack and John Bove, owner of Spotted Tail Creek Trout Ranch, conducted dredge and fill operations in North Fork Horse Creek and its adjacent wetlands. These fish habitat enhancements consisted

primarily of dredge and fill operations to create large pools in the creek while side-casting dredged or fill material to create small dams to raise the water level in the pools creating small impoundments or ponds.

11. In 2000, 2001, and 2002, the Respondents and their agent, Dave White, owner of Rocking Horse Enterprises, constructed additional ponds in Horse Creek and its adjacent wetlands using similar techniques as described in paragraph 10 of Section V of this Consent Order.

12. On or about October 28, 2002, the U.S. Army Corps of Engineers' ("Corps") Wyoming Regulatory Office received information indicating that ponds had been constructed on Respondents' property along a 0.5 mile reach of the North Fork Horse Creek. On November 20, 2002, the Corps confirmed, through visual observation from Laramie County Road 228-A, pond construction activities within North Fork Horse Creek, Horse Creek, and their adjacent wetlands on a portion of the property described in paragraph 7 of Section V of this Consent Order.

13. By letter dated December 3, 2002, the Corps found that Respondents' actions, as described in paragraphs 10 and 11 of Section V of this Consent Order, required prior Corps authorization and that the required authorization was neither applied for prior to the discharge, nor granted. Further, the Corps directed Respondents to "cease and desist" any further unauthorized work at the Horse Creek Ranch Property.

14. On December 23, 2002, the Corps conducted an inspection on Respondents' property. The Corps found, and EPA through issuance of this Consent Order finds, that Respondents discharged dredged or fill material and/or caused dredged or fill material to be discharged into North Fork Horse Creek, Horse Creek, and their adjacent wetlands located on the

Horse Creek Ranch Property. The Corps' December 23, 2002 inspection found that approximately twenty (20) ponds and three (3) bridge crossings were constructed during the time period described in paragraphs 10 and 11 of Section V. The Corps originally estimated that approximately seven (7) acres of wetland had been impacted by the excavation activities and approximately five (5) acres of wetland had been filled due to construction of dams and disposal of excess dredged material.

15. Following a site visit on April 22, 2003, EPA and the Corps found that approximately thirty-two (32) additional ponds were constructed during the time period described in paragraphs 10 and 11 of Section V. EPA and the Corps found that Respondents discharged dredged or fill material and/or caused dredged or fill material to be discharged into North Fork Horse Creek, Horse Creek, and their adjacent wetlands located on the Horse Creek Ranch Property. EPA and the Corps found the total acres of wetlands and length of stream impacted to be more substantial than the Corps' original estimation of impacts described in paragraphs 12 and 14 of Section V of this Consent Order.

16. The activities described in paragraphs 10 and 11 of Section V of this Consent Order were performed using common earthmoving vehicles and equipment, including a tracked hoe, all of which were operated by Respondents and/or by one or more individuals on behalf of Respondents.

17. Respondents are "persons" within the meaning of section 502(5) of the CWA, 33 U.S.C. § 1362(5).

18. The discharged dredged material referenced in paragraph 14 and 15 of Section V of this Consent Order are and were at all relevant times "dredged material" within the meaning of

33 CFR § 323.2(c) and “pollutants” within the meaning of section 502(6) of the CWA, 33 U.S.C. § 1362(6).

19. The discharged fill material referenced in paragraph 14 and 15 of Section V of this Consent Order are and were at all relevant times “fill material” within the meaning of 33 CFR § 323.2(e) and “pollutants” within the meaning of section 502(6) of the CWA, 33 U.S.C. § 1362(6).

20. The creeks and wetlands filled and disturbed by Respondents’ unauthorized activities provided various functions and values, including: wildlife habitat for birds, mammals, reptiles and amphibians; water quality enhancement; flood attenuation; and/or aesthetics.

21. Some, if not all, of the creeks and wetland areas where dredged or fill material was discharged by Respondents and their agents is habitat of the Preble’s Meadow Jumping Mouse (*Zapus hudsonius preblei*), a threatened species under the Endangered Species Act, 16 U.S.C. § 1531, *et seq.*

22. The vehicles and equipment described in paragraph 16 of Section V of this Consent Order are and were at all relevant times each a “point source” within the meaning of section 502(14) of the CWA, 33 U.S.C. § 1362(14).

23. North Fork Horse Creek, Horse Creek, and their adjacent wetlands referenced in paragraphs 7 and 8 of Section V of this Consent Order are and were at all relevant times “waters of the United States” within the meaning of 33 CFR § 328.3(a) and therefore “navigable waters” within the meaning of section 502(7) of the CWA, 33 U.S.C. § 1362(7).

24. The placement of dredged or fill material into North Fork Horse Creek, Horse Creek, and their adjacent wetlands constitutes the “discharge of pollutants” within the meaning of section 502(12) of the CWA, 33 U.S.C. § 1362(12).

25. Section 301(a) of the CWA, 33 U.S.C. § 1311, prohibits, among other things, the discharge of pollutants by any person into waters of the United States except as in compliance with section 404 of the CWA, 33 U.S.C. § 1344.

26. Section 404 of the CWA, 33 U.S.C. § 1344, sets forth a permitting system authorizing the Secretary of the Army, acting through the Chief of Engineers of the Corps, to issue permits for the discharge of dredged or fill material into navigable waters which are defined as waters of the United States.

27. 33 CFR § 323.3(a) specifies that, unless exempted pursuant to 33 CFR § 323.4, a permit issued by the Corps is required for the discharge of dredged or fill material into waters of the United States.

28. Respondents are not and never have been authorized by a permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, to conduct any of the activities described in paragraphs 10 and 11 of Section V of this Consent Order.

29. The activities conducted by Respondents and/or their agents as described in paragraphs 10 and 11 of Section V of this Consent Order violate section 301 of the CWA, 33 U.S.C. § 1311. Each discharge of pollutants from a point source by Respondents into waters of the United States without the required permits issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, constitutes a violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a). Each

day the discharges remain in place without the required permits constitutes an additional day of violation of section 301(a).

30. Mitigation for adverse impacts to waters of the United States and removal of the dredged or fill material illegally discharged into waters of the United States at Respondents' property and restoration of the impacted waters, including North Fork Horse Creek, Horse Creek, and their adjacent wetlands, to a condition that closely approximates their condition and function prior to the discharge of the dredged or fill material, can be achieved as a practical matter through commonly used methods of construction, digging, revegetation, and best management practices.

31. Activities to be carried out under this Consent Order are remedial, not punitive, and are necessary to achieve the CWA's objective "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," as specified in section 101(a) of the CWA, 33 U.S.C. § 1251(a). The removal, restoration, and mitigation described in paragraph 30 of Section V of this Consent Order are appropriate to alleviate actual and potential harm to water quality, aquatic habitat, and wildlife habitat caused by Respondents' unpermitted activities.

32. In order to resolve the violations alleged herein by EPA, Respondents have agreed to comply with this Consent Order and agree to abide by all of its terms and conditions herein and agree not to challenge the jurisdiction of EPA or these Findings of Fact in any proceeding to enforce this Consent Order.

33. These preceding FINDINGS OF FACT AND OF VIOLATION and the ORDER FOR COMPLIANCE below have been made after consultation and coordination with the United States Army Corps of Engineers, Omaha District.

VI. ORDER FOR COMPLIANCE

Based upon the foregoing FINDINGS OF FACT AND OF VIOLATION, and pursuant to the authority vested in the Administrator of the EPA pursuant to sections 308 and 309(a) of the CWA, 33 U.S.C. §§ 1318 and 1319(a), as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, it is hereby ORDERED and AGREED:

1. Respondents shall immediately terminate all unauthorized discharges of dredged or fill material, now and in the future, into waters of the United States, unless specifically authorized by the Corps under a valid permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344. This prohibition includes all mechanical land clearing, dredging, filling, grading, leveling, installation of utilities, construction, and any other activities that result in a discharge of dredged or fill material into waters of the United States.

2. Respondents shall remove all dredged or fill materials that were discharged as a result of the violations identified in this Consent Order and restore North Fork Horse Creek, Horse Creek, and their adjacent wetlands, and any other impacted areas to their pre-impact conditions and grade, unless otherwise approved by EPA in the Restoration/Mitigation Plan required by paragraph 6 of Section VI of this Consent Order.

3. All dredged or fill material removal, restoration, and mitigation activities shall be conducted in accordance with an EPA-approved Restoration/Mitigation plan prepared by a consultant experienced in stream and wetland restoration and Preble's Meadow Jumping Mouse habitat whose qualifications are acceptable to EPA. The consultant also shall directly supervise all work performed pursuant to the EPA-approved Restoration/Mitigation Plan. If Respondents elect to employ a consultant other than the one that they have already notified EPA that they

intend to use for removal, restoration, and mitigation activities, a statement of the consultant's qualifications, including professional resume and business references, shall be submitted to EPA within twenty-one (21) calendar days of receipt of this Consent Order.

4. All dredged or fill material removal, restoration, and mitigation activities conducted pursuant to this Consent Order and involving the use of heavy construction equipment shall be undertaken by an equipment operator experienced in stream and wetland restoration and mitigation whose qualifications are acceptable to EPA. A statement of the equipment operator's qualifications, including professional resume and business references, shall be submitted to EPA within twenty-one (21) calendar days of receipt of this Consent Order.

5. Within seven (7) calendar days of any disapproval by EPA of the qualifications of the consultant or equipment operator referenced in paragraphs 3 and 4 of Section VI of this Consent Order, Respondents shall submit the professional resume of a qualified individual who is acceptable to EPA.

6. Within sixty (60) calendar days of the receipt of this Consent Order, Respondents shall submit to EPA for review and comment a Restoration/Mitigation Plan, prepared by the consultant referenced in paragraph 3 of Section VI of this Consent Order, for removing the discharged dredged or fill material from North Fork Horse Creek, Horse Creek, and their adjacent wetlands and restoring North Fork Horse Creek, Horse Creek, and their adjacent wetlands to their pre-impact channel configuration and grade, and where appropriate, mitigation of the impacts due to any unauthorized dredged or fill materials, including any structures, that are proposed to remain in place.

7. The Restoration/Mitigation Plan shall be prepared in accordance with “U.S. Environmental Protection Agency - Region VIII Section 404 Enforcement: General Guidelines for Removal and Restoration Plans and Habitat Mitigation and Monitoring Proposal Guidelines,” attached hereto as Exhibit A. In addition, the Restoration/Mitigation Plan shall include:

- a. A complete assessment of the impacts to North Fork Horse Creek, Horse Creek, and their adjacent wetlands due to the Respondents’ actions as described in paragraphs 10 and 11 of Section V of this Consent Order.
- b. A detailed work plan and schedule for all of the work to be accomplished by the Restoration/Mitigation Plan, including the application for any required permits, providing for completion of all aspects of the restoration and mitigation work no later than sixty (60) days after EPA approves the Restoration/Mitigation Plan;
- c. An engineering analysis providing a technical justification for any unauthorized dredged or fill materials, including any structures, that are proposed to remain in place, and describing and documenting appropriate mitigation for these impacted areas;
- d. Locations of the existing natural features and man-made improvements, including all surface disturbance, fills, channel excavations, road crossings, culverts, structures, and any other work, including a corresponding map (scale 1":100') of these locations;
- e. Locations and delineations of all wetlands. The delineation shall be performed in accordance with the procedures in the “Corps of Engineers Wetlands Delineation

Manual, January 1987 - Final Report,” including the procedures for atypical situations, and subsequent interpretive guidance published by the Corps;

- f. Grading, planting, and monitoring plans, measurable criteria for success of restoration and mitigation, and provisions for proper disposal of any excess soils or other materials generated during construction and restoration;
- g. Identification of all areas that, prior or subsequent to the activities described in paragraphs 10 and 11 of Section V of this Consent Order, may have been habitat for the Preble’s Meadow Jumping Mouse, and measures for restoring those areas such that they once again provide adequate habitat for the Preble’s Meadow Jumping Mouse;
- h. Detailed professional drawings of the restoration and mitigation site(s), including plan and profile drawings with control elevations; and
- i. A description of all costs to complete the restoration and mitigation work, including the costs of all studies, consultations, permits, monitoring, and construction.

8. EPA will review the Restoration/Mitigation Plan and approve it, approve it with modifications, or reject it with comments. If EPA rejects the Restoration/Mitigation Plan, Respondents shall, within fifteen (30) calendar days of receipt of EPA’s rejection letter, submit a revised plan that corrects the deficiencies identified by EPA.

9. Upon receiving EPA’s written approval of the Restoration/Mitigation Plan, Respondents shall obtain all necessary permits to implement the EPA-approved plan and then commence restoration and mitigation activities in accordance with the approved plan, including

the time frames specified therein, and all granted permits. Respondents shall demonstrate that all necessary permits have been granted by providing complete copies of all such permits, and any amendments thereto, to EPA within seven (7) calendar days of issuance of each permit.

10. This Consent Order is not a permit or an authorization to place or discharge dredged or fill material in waters of the United States. Respondents shall consult with the Corps at the address and telephone number below to determine if any work to be performed pursuant to this Consent Order requires a permit from the Corps under section 404 of the CWA. If required, Respondents shall obtain such permit(s) and provide a copy to EPA pursuant to paragraph 9 of Section VI of this Consent Order prior to initiating any work that is to be performed pursuant to this Consent Order.

U.S. Army Corps of Engineers
Wyoming Regulatory Office
2232 Dell Range Blvd., Suite 210
Cheyenne, WY 82009-4942
Telephone: 307-772-2300

11. Respondent shall submit three (3) copies of the Restoration/Mitigation Plan, all notifications, and related correspondence to:

Kenneth Champagne, 8ENF-W
U.S. Environmental Protection Agency, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466
Telephone: 303-312-6608
Facsimile: 303-312-6409

A copy of the Restoration/Mitigation Plan, all notifications, and related correspondence shall also be provided to:

Sheldon H. Muller, 8ENF-L
U.S. Environmental Protection Agency, Region 8

999 18th Street, Suite 300
Denver, CO 80202-2466
Telephone: 303-312-6916
Facsimile: 303-312-6953

12. In addition to the notification requirement set forth in paragraph 11 of Section VI of this Consent Order, after issuance of any Corps authorization required for the restoration and mitigation work, Respondents shall submit all notifications and correspondence to the Corps in accordance with the terms and conditions in the Corps permit.

13. Any deliverables, plans, reports, specifications, schedules and attachments required by this Consent Order are, upon approval by EPA, incorporated into this Consent Order. Any non-compliance with such EPA-approved deliverables, plans, reports, specifications, schedules, and attachments shall be deemed a failure to comply with this Consent Order and subject to EPA enforcement.

14. Respondents shall allow access by any authorized representatives of EPA or its contractors, the Corps, the Natural Resources Conservation Service, the U.S. Fish and Wildlife Service, the Wyoming Department of Environmental Quality, and the Wyoming Game and Fish Department, upon proper presentation of credentials, to sites and records relevant to this Consent Order for any of the following purposes:

- a. To inspect and monitor progress of the activities required by this Consent Order;
- b. To inspect and monitor compliance with this Consent Order; and
- c. To verify and evaluate data and other information submitted to EPA.

This Consent Order shall in no way limit or otherwise affect EPA's authority, or the authority of any other governmental agency, to enter the site, conduct inspections, have access to records,

issue notices and orders for enforcement, compliance, or abatement purposes, or monitor compliance pursuant to any statute, regulation, permit, or court order.

15. Respondents' obligations under this Consent Order are joint and several.
16. This Consent Order shall be effective upon receipt by Respondents.
17. Respondents understand and acknowledge the following:
 - a. That section 309(d) of the CWA, 33 U.S.C. § 1319(d), authorizes civil penalties of up to \$27,500 per day for each violation of section 301 of the CWA, 33 U.S.C. § 1311, and for each violation of an order issued by the Administrator of EPA under section 309(a) of the CWA, 33 U.S.C. § 1319(a), including this Consent Order;
 - b. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes EPA to impose administrative penalties for violations of the CWA;
 - c. Section 309(c) of the CWA, 33 U.S.C. § 1319(c), authorizes fines and imprisonment for willful or negligent violations of the CWA;
 - d. Issuance of this Consent Order shall not be deemed to be an election by the United States to forego any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for violations giving rise to the Consent Order;
 - e. Compliance with the terms and conditions of the Consent Order shall not be construed to relieve Respondents of Respondents' obligation to comply with any applicable Federal, state, or local law or regulation; and
 - f. Failure by Respondents to complete the tasks described herein in the manner and time frame specified pursuant to this Consent Order may subject Respondents to a

civil action under section 309 of the CWA, 33 U.S.C. § 1319, for violation of this Consent Order.

18. Each party shall bear its own costs and attorneys fees in connection with this matter.

19. This Consent Order constitutes the final, complete and exclusive agreement and understanding among the parties with respect to the settlement embodied in this Consent Order. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement of this matter other than those expressly contained in this Consent Order.

20. Each undersigned representative of Respondents certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind such party to this document.

**FOR UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,**

Date: 3/02/2004 By: SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance, and
Environmental Justice
U.S. Environmental Protection Agency, Region 8

FOR DAVID L. BERRY,

Date: 3/20/04 By: SIGNED
David L. Berry
P.O. Box 100
Horse Creek, WY 82061

**FOR HORSE CREEK CATTLE COMPANY
LIMITED PARTNERSHIP,**

Date: 3/20/04 By: SIGNED
David L. Berry, Managing Partner
2880 Horse Creek Road
Cheyenne, WY 82009

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON MARCH 3, 2004.**